

**Washington State Criminal Sentencing Task Force  
Sentencing Grid Subgroup  
Meeting Notes: May 17<sup>th</sup>, 2022  
Meeting via Zoom**

**Attendees:**

- Tiffany Attrill, *Interests of Victims of Crime*
- Senator Chris Gildon, *Washington State Senate (Republicans)*
- Rep. Roger Goodman, *Washington State House of Representatives (Democrats)*
- Keri-Anne Jetzer, *Sentencing Guidelines Commission (SGC)*
- Greg Link, *WA Assn. of Criminal Defense Attorneys; WA Defender Assn*
- Nick Straley, *Interests of Incarcerated Persons-alternate*
- Judge Wesley Saint, Clair, *Sentencing Guidelines Commission*
- Chief Brian Smith, *Washington Association of Sheriffs and Police Chiefs - alternate*
- Jon Tunheim, *WA Association of Prosecuting Attorneys*
- Waldo Waldron-Ramsey, *Interests of Incarcerated Persons*

**Research/Technical Support:** Dr. Lauren Knoth-Peterson, *WA State Institute for Public Policy (WSIPP)*

**Facilitation Team:** Amanda Murphy, Maggie Counihan

**Public Guests:** Jim Chambers, Bruce Glant, Joanne Smieja, David Trieweiler

**Welcome and Agenda Review**

Amanda welcomed Grid Subgroup members and reminded the group the focus of the meeting is washout periods. She noted the group had previously spent a number of weeks discussing washouts and received a presentation from Dr. Megan Kurlychek on her work in Pennsylvania.

**Washout Rules**

Dr. Knoth-Peterson gave the group a refresher of the previous discussions and potential recommendations. She reviewed the potential recommendations – copied below—and how they would meet the policy goals of the Task Force.

**Potential Recommendation:** Allow sex offenses to washout. Sex offenses would washout consistent with the general washout rules by offense class.

**Potential Recommendation:** Change washout periods to the following:

- Class A washout period of 15 years (*new addition*)
  - Alternative Option: Some class A's washout. Higher OSLs do not washout
  - Alternative Option: Offense Classification Proposal 1 (Appendix D) – creates A1, A2, A3 and assigns different washout periods to each

- Class B washout period of ten years (*current law*)
- Class C washout period of five years (*current law*)

**Potential Recommendation:** Only conviction for a new criminal felony offense should reset washout periods. Confinement for a technical violation or revocation of a sentencing alternative (that is not due to commission of a new crime) will not reset the washout period.

**Proposed Recommendation:** Washout period starts with Judgment & Sentencing Form rather than release to community.

**Potential Alternative:**

Washout periods are X years from the J and S or Y years after release from incarceration, whichever is longer. For example, it could be a 10 year washout period for class B offenses starting from the J and S or 3 years after release from incarceration. If an individual had a 5 year prison sentence, their conviction would washout 5 years after release (10 years after J and S). If an individual was sentenced to 9 years incarceration, their conviction would washout 3 years after release from incarceration (12 years after J and S).

Are there any recommendations that people can't live with? And why?

- A member asked a question about allowing serious violent to washout with an exception

Amanda asked the group to focus on the recommendation about what the washout period should be.

- Had been previous interest in what Pennsylvania is recommending which is 10 year crime free period for lower offenses, 15 for all offenses except violent.
- A member said there are limitations of getting out of state data to consider how it figures into criminal history score.
- Another member noted that the burden of proof is on the state to prove prior convictions occurred.
- Another member was not sure about using the DOC opinion of whether or not a washout period resets.
- A member said they think it should be from J & S and that a new crime restarts the clock, not just based on revocations.
- A member said it doesn't make sense to them if an individual earned time for washout period while incarcerated.
- A member said for them washout is not about risk, it is more about if the sanction for current recidivistic behavior is influenced by past criminal history.
- A member said the complexity seems to stem from having washout start at J&S vs. release date. Understand the reason for starting washout at J&S but not sure how politically viable it would be.

- Not surprised that any major shift in washout period would be controversial.
- If a revocation of a sentencing alternative and it starts at J&S, does the clock restart at the J&S?
  - Revocation only matters if it starts at release to community and not J&S.
- Concern about increasing the washout periods from what they are currently.
- Seems like there are two options, complexity or longer washout periods.
- A member said they think they could get to an agreement on technical violations not restarting the washout period.
- Is there an alternative that only DOC administers?
  - There had been a change in the past from Courts doing revocations and now DOC doing revocations. Needed an ability to more quickly process revocations so individuals were not released.
  - For prison DOSA's and individuals serving in community individuals can get revocations too.
- Would favor leaving ?? at time of release.
- Would extending the time and having it start at imposition of sentence
- Think the complexity comes from all of the post conviction things that are calculated.
- If an individual has a DOSA, it was revoked and you look for the date, would it be revocation release date, not the first time they were released?

### **Next Steps**

Will wrap up conversation on washouts. Asked group to think about time periods to continue the conversation next week.

### **RESEARCH AND INFORMATION SHARED VIA ZOOM CHAT DURING MEETING**

### **COMMENTS SUBMITTED BY GUEST OBSERVERS VIA ZOOM CHAT and/or EMAIL**

Bruce Glant: Did PA consider non-contact violent sex offenses? or should I say consider those in their suggestions?

